

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDRE RODRIGUEZ,

Plaintiff,

- against -

COMPLAINT AND  
JURY TRIAL DEMAND

P.O. THEODORE STEIXNER, Shield No. 5180,

Defendant.  
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Plaintiff, ANDRE RODRIGUEZ, by his attorney, ALAN D. LEVINE, ESQ.,  
complaining of the defendant herein, respectfully alleges as follows:

**JURISDICTION**

1. This is a civil action, seeking compensatory damages, punitive damages  
and attorney's fees.

2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the  
fourth and fourteenth amendments to the Constitution of the United States.

3. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343.

**VENUE**

4. Venue is properly alleged in the Southern District of New York in that the  
acts complained of herein occurred within this District.

**JURY TRIAL DEMAND**

5. Plaintiff hereby demands a trial by jury of all issues in this action that are  
so triable.

**PARTIES**

6. At all times relevant hereto, plaintiff, ANDRE RODRIGUEZ, was and is a  
natural person, resident in the County of Bronx, City and State of New York.

7. At all times relevant hereto, defendant P.O. THEODORE STEIXNER, Shield No. 5180, was and is a natural person, employed as a police officer by the Police Department of the City of New York.

8. The defendant is sued in his individual capacity.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(42 U.S.C. §1983)**

9. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "8" hereinabove as if more fully set forth at length herein.

10. On or about June 27, 2014, at approximately 4:45 A.M., plaintiff was lawfully operating a 2002 Honda Civic motor vehicle on Riverside Drive in the County, City and State of New York.

11. At the aforementioned time and place, defendant directed plaintiff to pull his vehicle over.

12. Plaintiff complied with defendant's directive, bringing his vehicle to a stop at or near the northeast corner of Riverside Drive and West 136th Street.

13. Upon approaching plaintiff's vehicle, defendant informed plaintiff that one of the lights on his vehicle was not functioning.

14. Defendant asked plaintiff if he had consumed any alcoholic beverages.

15. Plaintiff denied having had anything alcoholic to drink.

16. Defendant directed plaintiff to blow into a breathalyzer.

17. Plaintiff refused to blow into the aforementioned breathalyzer.

18. Plaintiff was transported to the stationhouse of the 30th Precinct.

19. At the stationhouse, plaintiff was, once again, directed to blow into a breathalyzer.

20. This time, plaintiff complied with the directive to blow into the breathalyzer.

21. The breathalyzer result showed that plaintiff had zero alcohol in his system.

22. Despite the fact that the test had shown that plaintiff had not imbibed any alcohol whatsoever, defendant placed him under arrest, falsely and maliciously charging him with operating a motor vehicle while intoxicated and with operating a motor vehicle while impaired by alcohol.

23. Plaintiff was held for more than twenty-four hours at the stationhouse of the 30th Precinct and at Manhattan Central Booking before he appeared before a Judge of the Criminal Court of the City of New York, County of New York.

24. Plaintiff was released on his own recognizance.

25. Plaintiff's license to operate a motor vehicle was temporarily suspended and was not conditionally restored until July 7, 2014.

26. At his arraignment, the court ordered plaintiff to submit to an assessment for alcohol abuse and dependency.

27. Plaintiff underwent the required screening for which he was required to pay four hundred (\$400.00) dollars.

28. Plaintiff appeared again in Criminal Court on the charge against him on September 8, 2014, at which time the charge against him was dismissed on the motion of the District Attorney.

29. Plaintiff was required to appear at a hearing at the New York State Department of Motor Vehicles on March 5, 2015.

30. The departmental charge against plaintiff was dismissed following the March 5, 2015, hearing.

31. Defendant violated plaintiff's right to be arrested, confined and prosecuted only with probable cause, guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States in that, acting under color of state law, he falsely and maliciously charged plaintiff with, and had him prosecuted for, the two aforementioned alcohol-related crimes.

32. Because of the aforementioned acts committed by defendant, plaintiff suffered a deprivation of his right to be arrested and prosecuted only with probable cause, guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States, and, as a result, suffered a loss of his liberty, lost time from his employment, was deprived of his ability to drive, and incurred expenses for legal representation.

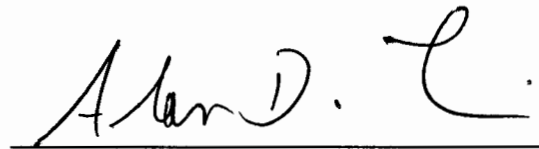
33. By reason of the unconstitutional and illegal actions taken against plaintiff by defendant, plaintiff has been damaged in an amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against the defendant.

WHEREFORE, plaintiff, ANDRE RODRIGUEZ, demands judgment against defendant, P.O. THEODORE STEIXNER, Shield No. 5180, as follows:

An amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against the defendant.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York  
June 22, 2017

A handwritten signature in black ink, appearing to read "Alan D. Levine", written over a horizontal line.

ALAN D. LEVINE, ESQ.  
Attorney for Plaintiff  
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